

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Eastern Bridge, LLC

v.

05-cv-411-SM

Bette & Cring, LLC

ORDER

Re: Document No. 5, Objection to Notice of Removal:

Ruling: The objection to removal is treated as a motion to remand based upon the forum selection clause in the contract. That motion to remand is denied. The forum selection clause binds the parties to one of two alternative means of dispute resolution: 1) arbitration or 2) litigation in a "court of competent jurisdiction under the laws of the State of New Hampshire, whichever shall be chosen first by either part[y]." The underscored language refers to the choice between arbitration and litigation. The plaintiff first chose litigation. The litigation must be filed in a court of competent jurisdiction under the laws of New Hampshire. The case was initially filed in the New Hampshire Superior Court, plainly a qualifying court. And, having been properly filed, it was properly removed to this court (which is also a court of competent jurisdiction under the laws of New Hampshire - the laws of New Hampshire necessarily recognize this court's jurisdiction under the national constitution). In any event, having been properly filed, the litigation could be properly removed since the forum selection clause does not purport to preclude removal, or any other procedural device applicable in the state's courts, which would be reasonably anticipated by the parties to the agreement. See generally, Silva v. Encyclopedia Britannica, Inc., 239 F.3d 385 (1st Cir. 2001).


Steven J. McAuliffe
Chief District Judge

Date: April 7, 2006

cc: Carl D. Hanson, Esq.
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Nicholas K. Holmes, Esq.